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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,786	06/04/2001	Felix Yen	2657.2003-001	2843
21005	7590	12/08/2005	EXAMINER DUONG, OANH L	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			ART UNIT 2155	

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Supplemental
Office Action Summary

Application No.

09/873,786

Applicant(s)

YEN ET AL.

Examiner

Oanh Duong

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20-37 and 39-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-37 and 39-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-18, 20-37 and 39-44 are presented for examination.
Claims 19 and 38 have been cancelled.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 11, 2005 has been entered.

Drawings Objection

3. The informal drawings are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13, 20-32 and 39-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. (Maissel) (US 6,637,029) in view of Barrett et al. (Barrett) (WO 01/22731 A1).

Regarding claim 26, Maissel teaches method for generating and using viewership profiles to facilitate distributing promotions based on the profiles of at least one network device (Fig. 8A-8B and abstract), comprising:

collecting viewership activity data for a network device (i.e., receives television viewing behavior of one or more individual viewers, col.11 lines 56-44);

correlating the viewership activity data with program schedule (i.e., combines the television viewing information with the program schedule information, col. 12 lines 16-22);

generating a viewership profile for the network device based on the collection (a viewer preference profile is generated by storing the current program characteristics in a viewer preference profile, col. 12 lines 12-34).

Maissel does not explicitly teach forwarding the viewership profile to the network device, the viewership profile including long-term viewership activity data of the network device; collecting short-term viewership activity data of the network device; and correlating the collected short-term viewership activity data with the long-term

viewership activity data of the viewership profile in order to determine a type of individual presently interacting with the network device.

Barrett, in the same field of endeavor, teaches forwarding the viewer profile to the network device (i.e., data and information derived/forwarded from the said plurality of said viewer profiles, page 5 lines 1-3), the viewership profile including long-term viewership activity data of the network device (i.e., each view profile may contain data relating to a viewers television viewing participation history, page 7 line11-28); collecting short-term viewership activity data of the network device (i.e., type of show being viewed, pages 4-5 step (h)); and correlating the collected short-term viewership activity data with the long-term viewership activity data of the viewership profile in order to determine a type of individual presently interacting with the network device (i.e., data and information such as data relating to a viewers television viewing participation history derived from the viewer profile(s) along with data and information associated with the viewers actions such as type of showed being viewed may be used to guess/identify the viewer, pages 4-5 step (h)).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the teachings of Maissel to include steps of forwarding the viewership profile to the network device, the viewership profile including long-term viewership activity data of the network device; collecting short-term viewership activity data of the network device; and correlating the collected short-term viewership activity data with the long-term viewership activity data of the viewership profile in order to determine a type of individual presently interacting with the network

device as taught by Barrett because it would allow viewer(s) of television to receive and view individualized television commercial(s), thereby improving and increasing the success of the selected and adapted television commercial advertisement session(s) (Barrett, page 2 claim 1).

Claim 1 represents a system that is parallel to claim 26. Claim 1 does not teach or define any new limitation above claim 26 and therefore is rejected for similar reasons.

Regarding claims 2 and 27, Maissel teaches the viewership activity data of the network device includes a program channel on the network device (col. 11 lines 60-61).

Regarding claims 3 and 28, Maissel teaches the viewership activity data includes a time at which the network device was tuned to the channel (col. 12 lines 16-34).

Regarding claims 4 and 29, Maissel teaches the viewership activity includes a time at which the network device was tuned away from the channel (col. 12 lines 26-45).

Regarding claim 5, 25, 30 and 44, Maissel teaches collecting viewership activity data collects viewership activity data if the difference between at time the network device was tuned to the channel and a time the network device was tuned away from the channel is greater than a configurable time period (col. 17 lines 17-44)

Regarding claims 6 and 31, Maissel teaches collecting viewership activity data is performed over a twenty-four hour period (col. 12 lines 26-31).

Regarding claims 7 and 32, Maissel teaches the viewership activity data includes a program viewed by a viewer (col. 11 lines 59-61).

Regarding claim 8, Maissel teaches the viewership activity data provides a percentage of time the program was viewed by the viewer (col. 12 lines 35-41 and col. 17 lines 24-38).

Regarding claim 9, Maissel teaches wherein the percentage of time is precise to within about one percent (col. 17 lines 24-38).

Regarding claim 10, Maissel teaches the program belongs to a genre (col. 11 lines 7-37).

Regarding claim 11, Maissel teaches the viewership activity data provides a percentage of time which the genre is viewed (col. 12 lines 38-41).

Regarding claim 12, Maissel teaches the percentage of time is precise to within about one percent (col. 17 lines 24-38).

Regarding claim 13, Maissel teaches the program belongs to multiple genres (col. 11 lines 7-32).

Regarding claims 20 and 39, Maissel teaches the short-term viewership activity spans over a time period of about one minute (col. 17 lines 32-34).

Regarding claims 21 and 40, Maissel teaches the short-term viewership activity spans over a time period of about one hour (col. 17 lines 17-44).

Regarding claims 22 and 41, Maissel teaches the viewership profile includes viewership activity data spanning a time period of about four weeks (col. 12 lines 16-34).

Regarding claims 23 and 42, Maissel teaches wherein the viewership profile includes viewership activity data spanning a time period of about eight weeks (col. 12 lines 16-34).

Regarding claims 24 and 43, Maissel teaches the viewership profile includes viewership activity data spanning a time period of about twelve weeks (col. 12 lines 16-34).

5. Claims 14-18 and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. (Maissel) (US 6,637,029) in view of Barrett et al. (Barrett) (WO 01/22731 A1) in further view of Swix et al. (Swix) (US 6,718,551 B1)

Regarding claims 14 and 33, Maissel-Barrett does not explicitly teaches the viewership profile data is matched with a group profile

Swix, in the same field of endeavor, teaches the viewership profile data is matched with a group profile (col. 8 lines 4-8).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the teachings of Maissel-Barrett to include a group profile as taught by Swix because it would effectively target advertisement to a demographic group.

Regarding claims 15 and 34, Swix-Barrett-Maissel teaches the group profile is based on viewer attributes (Swix, col. 5 lines 10-13).

Regarding claims 16 and 35, Swix-Barrett-Maissel teaches the attributes include a geographic location (Swix, col. 3 lines 3-23).

Regarding claims 17 and 36, Swix-Barrett-Maissel teaches the attributes include demographic characteristics (Swix, col. 5 lines 10-13).

Regarding claims 18 and 37, Maissel teaches the attributes include a genre of programs (Maissel, col. 11 lines 30-32).

Response to Arguments

6. Applicant's arguments filed on October 11, 2005 have been fully considered but they are not persuasive.

In the remarks, applicants argued in substance that

(A) Prior art does falls short of teaching or suggesting that the viewer profiles contain long-term viewership activity data or that long-term viewership activity is used to determine the identity of a current user.

As to point (A), Barrett does teaches the viewer profiles contain long-term viewership activity data (i.e., each view profile may contain data relating to a viewers television viewing participation history, page 7 line11-28), or that long-term viewership activity is used to determine the identity of a current user (i.e., data and information such as data relating to a viewers television viewing participation history derived from the viewer profile(s) along with data and information associated with the viewers actions such as type of showed being viewed may be used to identify the viewer, pages 4-5 step (h)).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Oanh Duong whose telephone number is (571) 272-3983. The examiner can normally be reached on Monday- Friday, 2:00PM - 10:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

O.D
October 27, 2005



SALEH NAJJAR
SUPERVISORY PATENT EXAMINER